

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

STEPHEN KELLY,

Plaintiff, 8:20-CV-235  
(DNH/CFH)

-V-

## GUILDERLAND POLICE DEPARTMENT,

## Defendant.

## APPEARANCES:

STEPHEN KELLY  
Plaintiff pro se  
18-A-3202  
Gouverneur Correctional Facility  
P.O. Box 480  
Gouverneur, NY 13642

DAVID N. HURD  
United States District Judge

## **DECISION and ORDER**

Pro se plaintiff Stephen Kelly commenced this action on March 2, 2020. On September 10, 2020, the Honorable Christian F. Hummel, United States Magistrate Judge, advised by Report-Recommendation that defendant Town of Guilderland Police Department be dismissed as a party from this action and that plaintiff's complaint be dismissed without prejudice but with leave to amend. No objections to the Report-Recommendation have been filed. However, before the issuance of a Decision and Order ruling on the Report-Recommendation, plaintiff filed an amended complaint naming "Guilderland Police

Department Officer Badge No.: 8813." ECF No. 8.

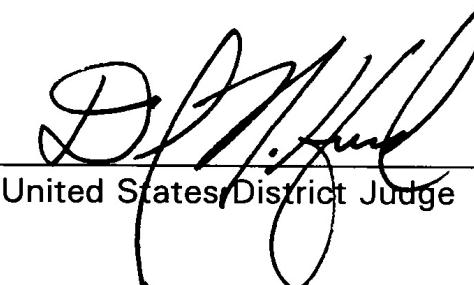
Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1). Plaintiff's amended complaint will be forwarded to Magistrate Judge Hummel for further review.

Therefore, it is

ORDERED that

1. Plaintiff's amended complaint, ECF No. 8, is referred back to Magistrate Judge Hummel for review; and
2. Plaintiff's application for an order directing service by the United States Marshals Service, ECF No. 4, is denied without prejudice with the opportunity to renew after Magistrate Judge Hummel's review of the amended complaint.

IT IS SO ORDERED.



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United States District Judge

Dated: October 14, 2020  
Utica, New York.